

A. LAND USE AND PLANNING

This section describes existing land uses at the project site and in the surrounding area and potential land use impacts are identified, and mitigation measures are recommended when necessary. This section also evaluates the proposed project's consistency with applicable planning policies. While this section contains a discussion of the consistency of the proposed project with relevant land use policies, policy conflicts do not, in and of themselves, constitute a significant environmental impact. Policy conflicts are considered to be environmental impacts only when they would result in direct physical impacts. Therefore, land use policies are discussed in this section for informational purposes only. All other associated physical impacts are discussed in this EIR in specific topical sections such as noise, air quality, and transportation.

1. Setting

The following section describes the existing land uses and regulatory context of the project site and its vicinity.

a. Existing Land Use. An overview of the NMSD Project site and the surrounding area are discussed below.

(1) Overview. The project site is located in the Midtown area of the City of Milpitas in Santa Clara County, California. The area that is considered Midtown Milpitas is identified in Figure IV.A-3. Figure I-1 includes the project's location and regional vicinity map. The project site is composed of three distinct areas with a total project site generally bound by Weller Lane to the north, the Union Pacific Railroad to the east, Carlo Street to the south, and the western boundary of the properties immediately west of North Main Street. North Main Street transects the project site in a north to south direction.

(2) Project Site. There are several land uses located on the project site. For this discussion, land uses of the project site are divided into two sections: the land uses east of North Main Street and the areas west of North Main Street. Figure IV.A-1 shows existing land uses in the project site.

Land Uses East of North Main Street. There are several land uses located in the project site east of North Main Street, including City owned land, commercial uses, a private residence, and street right-of-ways.

The City owns land within the project site including the Milpitas Grammar School building which is currently vacant, a parking lot north of the Milpitas Grammar School building and located at the corner of North Main Street/Weller Lane, and a City owned corporation yard is south of the Milpitas Grammar School building.

There are several commercial uses within the project site east of North Main Street. These uses front on Winsor Avenue and include a towing service, transmission repair shop, and storage yards.

There is also a single-family residence on North Main Street. This residence is south of the Winsor Blacksmith Shop.

The Winsor Avenue, Weller Lane, and North Main Street rights-of-way are also located in this area.

Land Uses West of North Main Street. The project site to the west of North Main Street is largely vacant. The historic DeVries Home, and associated accessory buildings, are located on a parcel to the west of North Main Street. The structures on this parcel are currently vacant and unused. The other two parcels within the project site west of North Main Street are vacant.

(3) Surrounding Area. The project site is located in the Midtown area of Milpitas. Land uses to the north of the project site include a church, single-family and multi-family housing. Land uses to the west include commercial and residential uses. The Lower Penitencia Creek is also located west of the project site on the west side of North Abel Street. Land uses to the south include commercial uses. The Union Pacific Railroad and industrial uses are located east of the project site.

b. Planned Land Use. Apton Plaza Development, a mixed-use project, has been approved for an area north of the Milpitas Grammar School. This development would include 100 residential units and 3,000 square feet of retail space.

c. Regulatory Context. There are three regulatory documents that serve as a guide for land use and development on the project site: the Milpitas General Plan; the Milpitas Midtown Specific Plan; and the Milpitas Zoning Ordinance. Each of these plans designates the site as Mixed-Use with a Transit Oriented Overlay District. These plans are summarized below.

(1) City of Milpitas General Plan. This document, adopted in 1994 and amended in 2002, provides a comprehensive, long-term guide for the physical development of the City of Milpitas. This document provides a basis for the City's regulations, policies and programs that relate to issues addressed in the Plan. The General Plan includes area within the city limits and within the Milpitas sphere of influence.

The Milpitas General Plan includes the following elements: Land Use; Circulation; Open Space and Environmental Conservation; Seismic and Safety; and Noise. Within each element are guiding principles and implementing policies. Guiding principles are statements of philosophy or intent; implementing policies are commitments to specific actions that are to be undertaken in order to achieve the results called for by the guiding policies.

The Milpitas General Plan designates the project site as Mixed-Use with a Transit Oriented Development (TOD) Overlay Zone, consistent with the Midtown Specific Plan designation. The General Plan designations can be seen in Figure IV.A-2. The Mixed-Use designation allows for commercial offices, retail and services, high density residential and public and quasi-public uses. This designation allows residential components to have a 21 to 30 units per gross acre and non-residential components to have a FAR of 0.75. Increased residential densities are permitted within the Transit Overlay District (TOD).

The TOD Zones are located near transit stations, and are applicable to land generally located within a 2,000 foot walking distance from a Light Rail Station or future BART station. Development within a TOD overlay zone is subject to special requirements regarding development density, parking, mix of uses, and transit supportive design features. The project falls within the north Midtown TOD, which increase densities in the Mixed-Use designation to a range of 31 to 40 dwelling units per gross acre.

Figure IV.A-1: Existing Land Uses

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Figure IV.A-2: Milpitas General Plan Land Use Designations

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Milpitas Midtown Specific Plan. The Milpitas Midtown Specific Plan (Specific Plan) provides a vision for the approximately 1,000-acre Midtown area of Milpitas. This area is currently undergoing rapid change, and has included the recent approval of 400 units of housing, the extension of the Santa Clara Valley Transit (VTA's) Tasman East Light Rail Transit (LRT) line, and a reinvestment in the Great Mall. There is also a proposal to extend the Bay Area Rapid Transit (BART) system through the Midtown area.

The Midtown area is generally bound by the Union Pacific Railroad lines on the east and north; Abel Street and Elmwood Rehabilitation Center on the west; and the city limits to the south. The Midtown area is shown in Figure IV.A-3.

The purposes of the Specific Plan include:

- Guide the development and further evolution of the Milpitas Midtown Planning Area (Midtown area);
- Encourage development that responds to City and regional objectives, such as a compatible mixture of residential, retail, and commercial uses;
- Reflect neighborhood considerations; and
- Encourage private investment in the area.

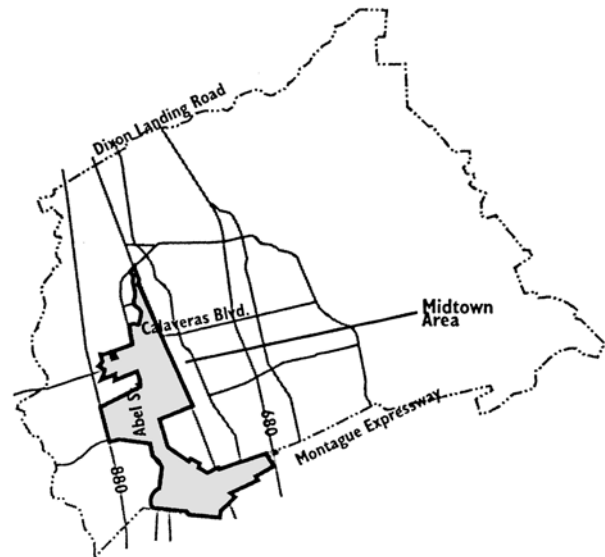


Figure IV.A-3: Milpitas Midtown Specific Plan Area

The following elements are discussed within the Specific Plan: Land Use; Circulation; Community Design; Utilities and Public Services; and Implementation. Goals and policies are listed within these elements.

The Milpitas Midtown Specific Plan designation of the project site is Mixed-Use with a Transit-Oriented Development (TOD) Overlay. The Mixed-Use designation allows for commercial offices, retail and services, high-density residential and quasi-public uses. The TOD Overlay zone is applicable to land generally within a quarter mile of the BART or LRT stations. There are two TOD zones in Specific Plan area; the project site falls within the North Midtown TOD zone. This zone allows multi-family residential development at a minimum of 31 units per gross acre and a maximum of 40 units per gross acre. Parking requirements may be lowered up to 20 percent for new development. New development must be designed to enhance and facilitate the pedestrian and bicycle environment. Figure IV.A-4 shows the Specific Plan Land Use designations of the project site and surrounding vicinity.

The Specific Plan also provides development standards and design guidelines. These standards and guidelines are meant to encourage high quality design and development within the Midtown area. The key development standards, applicable to the NMSD Project site, are outlined in Table IV.A-1.

Table IV.A-1: Midtown Specific Plan Development Standards for Mixed Use with TOD Overlay District

Topic	Standard
Density	31 dwelling units per gross acres (minimum)
	40 dwelling units per gross acre (maximum)
	FAR 1.0
Maximum Building Height	Four stories and 60 feet, including special architectural elements such as towers and spires
Front Build-To Line/Setback	Minimum setback of 8 feet and a maximum setback of 15 feet from the back of the sidewalks. The sidewalk shall either be based on the existing sidewalk or an assumed 10-foot wide sidewalk, whichever is wider. Within the 10-foot sidewalk shall be street trees.
Side and Rear Yard Setbacks	10 feet from the side and rear yard property lines
Parking	Parking requirements listed in the Mixed-Use District will be reduced by 20% of total required parking; the northern TOD may only apply this reduction once a decision on the location and the viability of the northern BART station has been made by the City Council.
Parks and Open Space	Developments in the Midtown area need to provide public and private space at a ratio of 3.5 acres per 1,000 population; up to 1.5 of the 3.5 acres of park space required may be provided as private park space; open space requirements are to the approval of the Planning Commission.

Source: Midtown Milpitas Specific Plan, 2002.

(2) **City of Milpitas Zoning and Sign Ordinance.** The Zoning Ordinance is designed to implement the General Plan and to encourage the most appropriate land uses throughout the City. The purposes of the Zoning Ordinance include:

- To stabilize and conserve the value of property to provide adequate light, air, and reasonable access;
- To secure safety from fire and other dangers;
- To prevent overcrowding of land;
- To avoid undue concentration of population;
- To facilitate the adequate provision for transportation, water, sewerage, schools, parks and other improvements; and
- In general to promote the public health, safety, peace morals, comfort and welfare, all in accordance with a comprehensive Zoning Ordinance and Master Plan.

The project site is zoned as Mixed-Use with a Transit Oriented Development (TOD) Overlay. A discussion of these zones is found below. Figure IV.A-5 shows the Zoning Designations of the project site and the vicinity of the project site.

Mixed Use Zone. The purpose of a Mixed Use (MXD) Zoning district is to encourage a compatible mix of residential, retail, entertainment, office and commercial service use within the framework of a pedestrian-oriented streetscape. It is intended that the residential and commercial use allowed in the MXD District combine to provide for an around-the-clock-environment with urban open areas that serve multiple purposes and can be used for special events.

Figure IV.A-4: Midtown Milpitas Specific Plan Land Use Designations

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Figure IV.A-5: Zoning Map

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The height allowed within this zoning district is 45 feet or three stories. The non-residential floor area ratio for non-residential buildings or non-residential uses within mixed use buildings is 75 percent. Multi-family residential density shall be a minimum of 21 dwelling units per gross acre and shall not exceed 30 dwelling units per gross acre.

Transit Oriented Development (TOD) Combining District. The purpose of the Transit Oriented Development (TOD) Combining District is to provide for land uses, land use densities and intensities and development standards that act to enhance and support transit and to locate such uses near rail transit stations. These provisions allow for a mix of goods and services within a convenient walk of the transit stations; encourage the creation of stable, attractive residential, commercial and industrial environments within the District; and provide for a desirable transition to the surrounding conventional areas. The TOD overlay can be combined with any zoning district on lands that are generally within a 2,000 foot walk of a transit station.

In a Mixed-Use TOD area, residential development shall be a minimum of 31 dwelling units per gross acre and shall not exceed 40 dwelling units per gross acre. Residential building height shall not exceed four stories or 60 feet, including special architectural elements such as towers and spires. The maximum FAR for non-residential buildings in a Mixed-Use District is 1.0.

2. Land Use Impacts and Mitigation Measures

This subsection analyzes environmental impacts related to land use that could result from implementation of the proposed project. The subsection begins with the criteria of significance, which establish the thresholds for determining whether an impact is significant. The latter part of this subsection presents the impacts associated with the proposed project. As noted earlier, conflicts between a project and applicable policies do not constitute significant physical environmental impacts in and of themselves; as such, the proposed project's consistency with applicable policies is discussed separately from the physical land use impacts associated with the proposed project. A policy inconsistency is considered to be a significant adverse environmental impact only when it is related to a policy adopted for the purpose of avoiding or mitigating an environmental effect and it is anticipated that the inconsistency would result in a significant adverse *physical* impact based on the established significance criteria. The proposed project's consistency with regional policies related to physical environmental topics (e.g., air quality, transportation, and noise) is fully analyzed and discussed in those topical sections of this EIR.

a. Criteria of Significance. Implementation of the proposed project would have a significant impact if it would:

- Disrupt or divide the physical arrangement of an established community.
- Alter the type or intensity of land use on a proposed site, causing it to be substantially incompatible with surrounding land uses or the overall character of the surrounding neighborhoods.
- Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect and where such conflict would potentially result in a physical adverse change in the environment.

b. Less-than-Significant Land Use Impacts. Implementation of the NMSD Project would result in the less-than-significant impacts described below.

(1) Community Integrity. The physical division of an established community typically refers to the construction of a physical feature (such as an interstate highway or railroad tracks) or removal of a means of access (such as a local road or bridge) that would impair mobility within an existing community, or between a community and outlying areas. For instance, the construction of an interstate highway through an existing community may constrain travel from one side of the community to another; similarly, such construction may also impair travel to areas outside of the community.

Implementation of the proposed project would result in the development of residential uses, retail uses, public uses including a health facility and library, and parking structures in an area that is currently underutilized with little pedestrian traffic. Two of the parcels within the project site along the west side of North Main Street are vacant, and do not represent a destination area, or a use which generates pedestrian activity. The existing uses within the project site east of North Main Street include uses that generate little, if any, pedestrian activity.

The proposed new uses within the project site would not physically divide or disrupt an established community. The proposed project generally adheres to the goals and policies outlines in the Milpitas Midtown Specific Plan and the City's General Plan. Additionally, several parcels within the NMSD Project site are identified in the Specific Plan as opportunity sites, or sites that are expected to be developed with higher or more intense uses. These sites include the site of the Dutra Home, the two vacant parcels west of North Main Street and south of the DeVries Home, and the area east of Winsor Avenue.

New structures associated with the project would be located along North Main Street, a major road through the Midtown Milpitas. These structures would likely be taller than surrounding buildings, and would bring an increase in population to the area as contemplated in the Midtown Specific Plan. However, these structures would not divide an established community, or impair mobility within the community, and their impact would be less-than-significant.

(2) Compatibility with Surrounding Land Uses. Implementation of the NMSD Project would not result in the development of land uses that would be incompatible with surrounding land uses (e.g., a power plant, factory, or other noise, air pollution, or hazard-generating land use). Implementation of the NMSD Project would not interfere with the daily operations of the surrounding land uses.

The proposed project would result in an increase in intensity of land use at the project site as planned by the Midtown Specific Plan. All vacant parcels would be built upon. Some buildings would be removed to accommodate components of the proposed project, and portions of Weller Lane and Winsor Avenue would be closed. Some of the proposed buildings would be 3 to 4 stories tall, with the tallest building at six stories tall, which is taller than most buildings within the vicinity. Additionally, the proposed uses would also bring increased numbers of people into the project site.

This increase in intensity would not be incompatible with surrounding land uses or the overall character of the surrounding neighborhoods. The proposed project is located on North Main Street, a major

road in the Midtown Milpitas. The mix and intensity of uses proposed on this street complies with the development pattern anticipated in the Midtown Specific Plan.

The Milpitas Midtown Specific Plan calls for an increase of residential units and an increase of housing units within the Midtown area. The project site is also located within a Transit Oriented Development (TOD) Overlay Zone as defined by the Midtown Milpitas Specific Plan and the Milpitas General Plan. The TOD Overlay Zone is located near transit, Light Rail, or future Bart stations. The TOD Overlay Zone allows for increased densities. Additionally, several parcels on the project site are identified as opportunity sites, or sites that are expected to be developed with higher or more intense uses.

(3) Consistency with Applicable Policies. The Midtown Milpitas Specific Plan, Milpitas General Plan, and the Milpitas Zoning Ordinance are all relevant documents for the project site. Policy conflicts are not considered to have significant effects on the environment. The physical impacts associated with policy conflicts are addressed in the appropriated technical section (e.g., noise, traffic).

Milpitas Midtown Specific Plan. The project site falls within the area of the Midtown Milpitas Specific Plan Area. The Specific Plan is meant to encourage additional development within the Midtown area that would serve residential, retail and commercial needs. The proposed project generally meets the policies and goals outlined in the Specific Plan.

Milpitas General Plan. The proposed project generally conforms to the policies and goals outlined in the General Plan. The project would provide: 110 units of affordable housing for seniors; a health care clinic; a library project; retail development; and two structures. The provision of a mixture of uses is a General Plan Guiding Policy identified for the Midtown area.

Milpitas Zoning Ordinance. All project components would be required to conform to the zoning standards or to acquire a use permit for deviation from development standards.

c. Significant Impacts. Implementation of the NMSD Project would not result in any significant land use impacts.

